



MAYOR AND COUNCIL AGENDA

NO. 17 DEPT.: Legal/ Community Planning and Development Services DATE: Sept. 16, 2004

Contact: Deane Mellander, Planner III

ACTION: Adoption of ordinance to grant text amendment TXT2004-00208, as modified; Erika Kapneck, applicant.

To amend the Zoning Ordinance to add "Cosmetology" as a permitted or special exception use in the one-family detached zones.

ACTION STATUS:

FOR THE MEETING OF: 10/4/04

INTRODUCED 5/10/04

PUB. HEARING 7/19/04

INSTRUCTIONS 8/2/04

APPROVED

EFFECTIVE

ROCKVILLE CITY CODE,

CHAPTER 25

SECTION 25-1, 25-296, 25-375

☐ CONSENT AGENDA

RECOMMENDATION: Adopt ordinance.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

Will allow cosmetology as a home occupation limited to one service chair as a permitted use for up to 20 clients per week, and as a special exception for more than 20 clients per week.

BACKGROUND: The applicant requested that the Mayor and Council accept a proposed text amendment to allow cosmetology as a permitted home occupation in the residential zones. At the meeting on May 10, 2004, the Mayor and Council directed staff to prepare a text amendment that would allow the use as a special exception, limited to one service chair, in the one-family detached residential zones. This reflects the way the equivalent use, "Beauty culture", had been treated in the zoning ordinance between 1961 and 1981.

When the proposed text amendment was filed, it recommended establishing "Cosmetology" as a special exception use in the one-family zones. It proposed modifying the home occupation definition to allow a separate entrance from the outside into the business. Article VIII, regulating special exceptions, was proposed to be amended to provide recommended development standards for the use, including a limitation on the number of service chairs and a requirement the off-street parking be required unless the Board of Appeals finds that on-street parking would not have an adverse impact on the surrounding neighborhood.

Post card notice and a draft of the proposed text were mailed to all the civic associations and the business community.

The Planning Commission considered this proposal at its meeting on July 14, 2004. The Commission's recommended that the use be allowed as a permitted home occupation. Their recommendation is attached.

At the public hearing, most of the testimony was in support of allowing the use as a permitted home occupation. There was some opposition testimony, generally expressing concern about the potential impact on the surrounding neighborhood due to traffic and parking. Additional opposition was submitted to the record following the hearing.

At the Discussion and Instruction session, the Mayor and Council instructed staff to modify the text amendment to allow this use as a permitted home occupation for up to 20 clients per week. If that number of clients per week is exceeded, then the owner must request a special exception, and meet the conditions of approval required. The attached ordinance reflects this change.

At the time of introduction of the ordinance, the staff noted that there might be practical difficulties in enforcing the conditions and requirements for the use as a permitted home occupation for up to 20 visits per week. If such uses do generate complaints, then the issue can be re-visited with a view towards making the use subject to special exception approval in all cases.

Staff has not attached all of the exhibits filed by the applicant in this case that were distributed to the Mayor and Council for the July 19, 2004 public hearing. They are all in the pubic record for review.

PREPARED BY:

Deane E. Mellander

Deane Mellander, Planner III

7/26/04

Date

APPROVE:

[Signature]

Robert J. Spalding, AICP, Chief of Planning

9.20.4

Date

APPROVE:

[Signature]

Arthur D. Chambers, AICP, CPDS Director

9/24/04

Date

APPROVE:

[Signature]

Catherine Tuck Parrish, Act. City Manager

9/28/04

Date

LIST OF ATTACHMENTS:

1. Proposed ordinance for adoption.
2. Planning Commission Recommendation.

Ordinance No. ____ ORDINANCE: To Grant Text Amendment Application No. TXT2004-00208, Erika Kapneck, Applicant

WHEREAS, Erika Kapneck, 1307 Coral Sea Drive, Rockville, Maryland 20851 filed Text Amendment Application TXT2004-00208, for the purpose of allowing cosmetology as a home occupation; and

WHEREAS, the Mayor and Council of Rockville reviewed the aforesaid application at its meeting of May 10, 2004, and accepted the application for further processing; and

WHEREAS, the Planning Commission reviewed the proposed text amendment application at its July 14, 2004, meeting and recommended approval, with amendments, as set forth in a memorandum dated July 15, 2004; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on July 19, 2004, at 7:00 p.m. or as soon thereafter as it may be heard; and

WHEREAS, on July 19, 2004, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council having considered the text amendment application, and the entire file pertaining thereto, said Mayor and Council having decided that the granting of this application in the form set forth below would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Text Amendment Application No. TXT2004-00208 be, and the same is hereby, granted in the form set forth below:

SECTION 1. Amend Section 25-1 "Definitions" to amend the definition of "Home occupation" to read as follows:

Section 25-1. Definitions

* * *

Home occupation means an occupation conducted entirely within a dwelling unit only by a member or members of the immediate family residing therein, not including a boardinghouse, and which complies with all of the following conditions:

- (1) Does not have a separate entrance from outside the building except for offices of health professionals and cosmetologists;
- (2) Does not display or create outside the building any external evidence of the operation of the home occupation except that a sign shall be permitted on the lot in accordance with section 25-465;
- (3) Does not utilize more than twenty (20) percent of the gross floor area, or three hundred (300) square feet, whichever is lower, in the dwelling unit;
- (4) Does not have any regular assistants not residing in the dwelling unit except for the offices of health professionals;
- (5) Is limited to the use of motors powered by electricity with a total limitation of three (3) horsepower.

* * *

SECTION 2. Amend Article VII, Division 2, "Use restrictions" Section 25-296 "Table of uses," as follows:

1. Under "Residential Uses" subsection "b", "Home occupations," add a new item number 7, entitled "Cosmetologist" and subsections a. and b. to read as follows:

7. Cosmetologist

- a. 20 or less customer visits per week
- b. more than 20 customer visits per week

2. Amend Section 25-296 "Table of uses," by designating new use 7.a. (cosmetologist, 20 or less customer visits per week) as permitted with certain restrictions (P) in the R-E, R-S, R-150, R-90, R-75 and R-60 zones.

3. Section 25-296 "Table of uses," is amended by designating new use 7.b. (cosmetologists, more than 20 customer visits per week) as permitted by special exception "S" in the R-E, R-S, R-150, R-90, R-75 and R-60 zones.

SECTION 3. That Article VII "Zoning District Regulations," Division 3 "Development Restrictions," is amended by adding a new section 25-334 to read as follows:

Section 25-334. Cosmetology as a home occupation, special limitations and requirements.

(a) This section applies to all cosmetologists operating as a home occupation, whether generating less or more than 20 customer visits per week.

(b) Special development and use requirements. The following special development and use requirements shall apply:

(1) The use must comply with all of the requirements for a home occupation as set forth in Section 25-1.

(2) Only one (1) customer service chair is allowed and only two (2) customers are permitted on the site at any one time;

(3) All external modifications and improvements to the one-family detached dwelling in which the use is located must be compatible with the existing dwelling and surrounding properties.

(4) No variance may be granted to accommodate the use.

(5) The owner/occupant must maintain a log of all customers that must be made available for inspection to assure compliance with the provisions of this chapter.

(6) Owner/applicant must obtain a valid license from the Maryland State Department of Labor, Licensing and Regulation to operate as a cosmetologist.

SECTION 4. That Article VIII, "Special Exceptions," Division 2 "Requirements for certain special exceptions" be amended by adding a new section 25-375 to read as follows:

Section 25-375 Cosmetologist as a home occupation.

(a) This section applies only to a cosmetologist operating as a home occupation with more than 20 customer visits per week.

(b) Special development and use requirements. The following restrictions and requirements shall apply:

(1) The use must comply with the requirements of Section 25-334.

(2) One (1) off-street parking space must be provided in addition to the parking required for the residential use. The Board may waive this requirement if it finds that on-street parking will not have an adverse impact on neighboring residential uses.

(3) The Board may regulate the hours of operation.

(4) The special exception automatically expires when any of the following occurs:

- a. The owner/ applicant sells the property on which the use is located;
- b. The use is abandoned for a period of more than six months;
- c. The owner/applicant's license from the State Department of Labor,

Licensing and Regulation to operate as a cosmetologist has been suspended, revoked or has expired.

Note: Underlining indicates material added
Asterisks * * * indicate material unchanged by this ordinance

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of

Claire F. Funkhouser, CMC, City Clerk



City of Rockville

MEMORANDUM

July 15, 2004

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Zoning Text Amendment TXT2004-00208, to allow cosmetologist as a special exception use in the one-family residential zones.

At its meeting on July 14, 2004, the Planning Commission considered proposed Zoning Text Amendment No. TXT2004-00208. The text amendment would allow cosmetology as a special exception use in the one-family residential zones as a home occupation with additional standards.

The Commissioners were given a presentation by the staff, and heard testimony from the applicant and citizens. The applicant testified that making the use a special exception did not make sense, given the nature of other home occupations that are currently permitted by right. The cosmetology use would have no greater impact than many professional offices now allowed.

The Planning Commission concurs with the applicant that this use should be allowed by right. There appear to be no facts to the contrary in the record. Commissioner Ostell can support the use by right, but suggests the Mayor and Council may wish to consider some limitation on the number of clients on-site at one time.

Therefore, on a motion by Commissioner Mullican, seconded by Commissioner Johnson, the Planning Commission by a vote of 6-to-0 recommends that the text amendment be modified to allow the proposed use as a permitted home occupation in the one-family residential zones.

DM

cc: Planning Commission